

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1294 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE D.C.SRIVASTAVA

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

CHATURBHAI GIRDHARDAS PATEL

Versus

STATE OF GUJARAT

Appearance:

MS TRUSHA K PATEL for Petitioner
MR PREMIAL JOSHI, AGP for Respondent No. 1
MR PJ VYAS for Respondent No. 2

CORAM : MR.JUSTICE D.C.SRIVASTAVA

Date of decision: 04/12/2000

ORAL JUDGEMENT

1. Having heard Ms.Trusha K Patel for the
petitioner, Shri Premal Joshi, learned AGP for the
respondent no.1 and Shri PJ Vyas for the respondent no.2,
it is found that this petition can be finally disposed of

at the admission stage. No counter affidavit has been filed despite service of notice.

2. The grievance of the petitioner is that, without being afforded any opportunity of hearing and without being impleaded as a respondent in the revision, the Tribunal has illegally allowed the revision on the consent of the original owner vide Annexure-'H'. It is this order Annexure-'H', which is under challenge in this petition.

3. The brief facts are that the land bearing Survey No.24/4, Block No.32 measuring 35-Guntha, situated in Village Bhadaj, Taluka City, District Ahmedabad was owned by the respondent no.2. He was the sole owner and occupier of the land. His name was recorded in the record of rights. He filed a revision application under sec.76(A) before the Deputy Collector, Land Reforms, Ahmedabad, interalia pleading that the disputed land is free from restrictions. The Deputy Collector, on 1-2-1994 allowed the revision and declared the land as free from restrictions vide Annexure-'A'. Entry no.2664 of 5-2-1994 was posted and was certified in Revenue records. Respondent no.2, thereafter, sold the property under a Regd.sale deed dated 10-6-1994 to the petitioner vide Annexure-'D'. Since then, the petitioner claims to be in possession of the property and the Entry no.2714 was posted on 11-8-1994 and certified on 27-9-1994 vide Annexure-'E'. Thus, after executing the sale deed, the respondent no.2 had lost right and title in the aforesaid land. The respondent no.1, however, filed a revision before the Gujarat Revenue Tribunal, under sec.76 of the Tenancy Act. In this revision, the petitioner was not made a party. It is contended that the petitioner had no knowledge that the State Government, respondent no.1 has filed any revision. When the revision was allowed, the order came to the knowledge of the petitioner subsequently, and thereafter, this revision petition has been filed.

4. The grievance of the petitioner is that, he was a necessary party in the revision, in as much as, he purchased the property under a Regd.sale deed, after the land was declared free from any restriction by the Deputy Collector. As such, there was no invalidity in the sale deed and as such, the revision could not be allowed on the strength of pursis filed by the original owner. After executing the sale deed, original owner lost all interest, right and title in the property. Consequently, his pursis giving consent to the Tribunal to allow the revision was worthless and the revision could not be

allowed on this basis. As such, the impugned order Annexure-'H' is illegal, hence it has to be quashed.

5. The petition, therefore, succeeds. The petition is hereby allowed. The impugned order Annexure-'H' is quashed. The petitioner is directed to move an application before the Tribunal for being impleaded as a party in Revision Application No.240/96, which shall be decided by the Tribunal first in accordance with law and thereafter, the revision shall be heard after giving an opportunity of hearing to the petitioner herein. No order as to costs.

December 4, 2000. [D.C. Srivastava, J.]

/sakkaf